

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

June 2, 1958

To Robert A. Marden, Esquire, County Attorney, Kennebec

Re: Commitment Fees

Your letter of May 15, 1958 reads as follows:

“Our County Treasurer and County Commissioners do not read in the law as revised and amended any authority to pay State Police officers for committing prisoners. Chapter 436 as passed at the Special Session October and January of this year and last apparently said nothing about State Police Officers but talks only about Constables and local Police Officers. I dislike to bother you with this type of thing but I wonder if you could tell me whether or not you have experienced similar problems in other counties and if so what decision was made.

“The specific question is ‘Can the County legally pay State Police officers for commitment?’”

It would be our opinion that there is no necessity or authority to pay State Police Officers for committing prisoners.

Chapter 334 of the Public Laws of 1957 (as amended by Chapter 436 of said Laws) reads in part as follows:

“The county, except in a case where any part of any fine collected would accrue to the State Highway Commission, shall pay the latter \$4 each time a State Police Officer duly signs, as arresting officer, the return of a criminal warrant issued by a trial justice or municipal court which is located within the county. Such \$4 fee shall be paid within a reasonable time after the county commissioners have met, examined and corrected the monthly report of the court. Such fee shall be paid regardless of the final disposition of the case. Neither the county nor the court shall be required to pay any fee for the services or expense of any State Police officer, as an aid, a witness or in any other capacity.”

Under such a statute we would be inclined to say that the State Police would not receive fees for commitments.

JAMES GLYNN FROST
Deputy Attorney General

June 2, 1958

To Ronald W. Green, Commissioner of Sea and Shore Fisheries

Re: Canadian Lobster Meat—Section 116, Chapter 38, R. S. 1954

We have your memo of May 23, 1958, which reads as follows:

“The A & P Tea Company which handles Canadian lobster meat from their Boston office wishes to place this frozen meat in the Willard-Daggett Cold Storage plant at Portland for the purpose of making deliveries in New Hampshire and Vermont.

“In your opinion, does this Section provide for such an operation?”

We do not see anything in Section 116 which prohibits the above activity.

Lobster meat being shipped from Canada with temporary storage in the State of Maine and then shipped out of State for sale and consumption is in foreign commerce until it reaches its destination outside the State of Maine.

Such lobster meat would be passing through the State under the authority of laws of the United States and would not be subject to those provisions of Section 116 which precede that portion of the section containing the following exception:

“The foregoing provisions of this section . . . shall not apply to lobster meat passing through the State under authority of laws of the United States . . .”

The foregoing provisions referred to provide generally that lobster meat in the State of Maine shall have been removed from the shell under permit and shall be of certain sizes and that it is to be used for certain purposes, none of which are pertinent because of the referred-to exception.

JAMES GLYNN FROST
Deputy Attorney General

June 3, 1958

To Elmer H. Ingraham, Chief Warden, Inland Fish & Game

Re: Beaver Dam

I have your request for an opinion concerning whether or not your wardens have authority to dynamite beaver dams on private property against the property owner's wishes.

As you have pointed out, sec. 119 of Chapter 37, Revised Statutes of 1954, provides that your department may take nuisance beaver at any time without the consent of the landowner.

It is my opinion that your wardens do not have any authority to dynamite a beaver dam on private property against the landowner's consent. You may take these beavers, and the town will then be left to deal with the landowner regarding the dam which is allegedly causing flooded roads.

GEORGE A. WATHEN
Assistant Attorney General

June 4, 1958

To Vaughan M. Daggett, Chief Engineer, State Highway Commission

Re: Use of Highway Funds for Archeological and Paleontological Salvage

You have requested my opinion as to the authority of the Commission to employ an archeologist on a part-time basis for the purpose of ascertaining the existence of Indian graveyards on proposed new highways in cooperation with the provisions of Section 120 of Title I of the Federal Highway Revenue Act of 1956.

It is obvious that the State of Maine has an interest in the preservation of Indian relics. It follows that these relics are of monetary value as well as of historical and scientific value. It is certain that if the State destroyed any of these relics intentionally, it would be severely condemned, with justification; the act would be wanton.